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Mexico's Challenge to Foreign Capital

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MEXICO—alone among Latin American republics—is now engaged in a large-scale program of peaceful socialization. It is designed to lift the economic and social level of the working masses, and to give Mexicans, as opposed to foreigners, an increasing share of the country's wealth. Under President Cárdenas this process has been markedly accelerated. The position of foreign capital is being undermined by three policies: widespread expropriation of agricultural lands, the gradual extension of state socialism and an advancing program of labor legislation. Despite United States investments in Mexico approximating one billion dollars, Washington has apparently manifested no active opposition. Although earlier controversies over land and oil legislation clouded relations between the two nations, a unique degree of cordiality now prevails. The present situation raises the question to what extent the United States has modified its former insistence on protection of its citizens' property rights and what factors have contributed to this shift in policy.

In the past foreigners have dominated mining, oil, railroads, electric power, manufacturing and large areas of agricultural land. Some sources have attributed to them ownership of two-thirds of Mexico's total wealth.[1] In 1928 United States investments were placed at a billion and a half dollars,[1a] although later estimates reduce this total by one-third. The Mexican Chamber of Commerce in 1932 figured British investments at $938,000,000; French at $290,000,000; Spanish at $195,000,000; and German at $75,000,000.

1. Moisés Saenz and Herbert L. Priestley, *Some Mexican Problems* (Chicago, University of Chicago Press, 1926), p. 11; and Robert W. Dunn, *American Foreign Investments* (New York, Huebsch, 1926), p. 90.

1a. Max Winkler, *Investments of United States Capital in Latin America* (Boston, World Peace Foundation, 1928), pp. 224, 225. This total was broken down as follows: oil, $408,000,000; mining and smelting, $391,000,000; railroads, $300,000,000; government bonds, $155,800,000; plantations and timber, $138,296,000; manufacturing, $60,000,000; wholesale and retail, $50,000,000; public utilities, $37,500,000.

CARDENAS PUSHES AGRARIAN REFORM

Return of the land to the people who work it has constituted the primary plank in Cárdenas' social program.[1b] On taking office, he found that during the 20 years succeeding Carranza's initial agrarian decree in 1915 only a start had been made in the program of land distribution. The legal basis of the reform had been set forth in Article 27 of the 1917 Constitution, which specified procedures for restoration or outright grant of *ejidos* (village communal lands), and also for the break-up of *latifundia* (large land-holdings) through limitations on the size of private estates.[2]

Up to the end of 1934, 8,197,023 hectares (20,246,647 acres) had been distributed to peasant communities, including 806,058 heads of families.[3] Yet there remained some 1,200,000 heads of families, entitled under existing laws to receive plots, whose needs were still unsatisfied.[4] Progress in

1b. For a discussion of other aspects of the Cárdenas administration, cf. Charles A. Thomson, "Mexico's Social Revolution," *Foreign Policy Reports*, August 1, 1937.

2. For the text in English of Article 27, as well as an analysis of its agrarian provisions, cf. Eyler N. Simpson, *The Ejido—Mexico's Way Out* (Chapel Hill, University of North Carolina Press, 1937), pp. 56-74 and 749-55.

3. Data from Departamento Agrario, Oficina de Estadística. The hectare is equivalent to 2.47 acres.

4. Simpson, *The Ejido—Mexico's Way Out*, cited, p. 195. This author declares that even when the prescriptions of existing laws are fully carried out, "approximately one million persons or some 27 per cent of the total economically active population engaged in agriculture"—principally resident laborers on *haciendas* and the inhabitants of small villages not covered by present legislation—will not have received land; "and over a third of the actual and potential crop land will still be in the hands of private landowners." *Ibid.*, p. 210.

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breaking up the *haciendas* had been equally slow. Some two-thirds of all large properties had never been touched. The 1930 agricultural census had revealed that "93.7 per cent of the area and 90.6 per cent of the value of all land in farms in Mexico is privately-owned and controlled very much in the same fashion that it has always been owned and controlled."[5]

Various factors had been responsible for this halting advance. Among them was a sharp division of opinion among Mexican leaders as to the goal and scope of the agrarian movement. One group, called the *veteranos* and headed by Calles, had held that the *ejido,* or communal village holding, should represent only a passing phase in a program whose ultimate goal would be creation of a class of small, independent farmers. The other school, termed the *agraristas,* argued that the *ejido* should be considered as the first step toward a communal régime in agriculture which should be progressively extended until all land had been socialized.[6]

The *ejido* is to be clearly distinguished from the small, privately owned farm. Title to the former is held not by the individual, but by the village; and the land is inalienable. The fertile portion is divided into small holdings of approximately equal size, which are assigned by lot to the heads of families. These are called *ejidatarios.* The *ejidatario* can hold his plot for life and bequeath it to his heir. But he loses his rights if he fails to farm the land two years in succession. Nor can he mortgage, rent or transfer the holding in any way.

On the *veterano-agrarista* issue President Cárdenas has substantially cast his lot with the second group. While showing no hostility to the small farmer class, he has emphasized extension of the *ejido.* Possibly the clearest expression of his agrarian policy is found in a speech delivered at Torreón on November 30, 1936.[7] As to the purpose and character of the *ejido,* he declared:

"In the early stages of the Revolution there may possibly have been some people in whose mind the *ejido* was but a mere supplement to the wage-earning system and insufficient in itself to guarantee the land laborer the economic independence that is the foundation of every civil liberty. But this view exerts no influence whatsoever in the fulfillment of the duties of the Government today. Groups of peasants were in the past given worthless bits of land, and lacked farming implements, equipment, credit and organization . . . . But the nation's conception of the *ejido* has been in reality far other . . . . As an institution [it] shoulders a double responsibility: as a social system it must make the country worker free from the exploitation to which he was subject under the feudal as well as under the individualistic systems; and as a system of agricultural production it must render such a yield as to provide the country at large with food . . . .

"The Constitution further guarantees the permanence and the stability of the *ejido* institution, preventing its absorption by large estates as well as its degeneration into individual holdings so small as to defeat the ends desired of it."[8]

Land distribution, which had been accelerated under Rodríguez, was still further speeded up by President Cárdenas. During 1935 2,668,260 hectares (6,590,602 acres) were assigned to 170,134 heads of peasant families, and in 1936 3,656,006 hectares (9,030,335 acres) were granted to 242,664 rural workers.[9-10] Thus in two years' time the Cárdenas régime had allotted more than three-fourths as much land as the total given out during the preceding 20 years.

As important to the President as the grant of land is the provision of agricultural credit and the organization of the *ejido* communities, including the formation of producers and consumers cooperatives. He took prompt steps to make the system of rural credit more efficient. A National Bank of Agricultural Credit had been set up in 1926, but most of its funds had gone to large landholders. Reorganized in 1931 and again in 1934, provision was made for loans both to *ejidatarios* and small farmers. These loans were to be granted only to local cooperative societies, credit operations with individuals being prohibited. The cooperatives were to make loans in turn to their individual members, and were also to organize production and marketing of crops and supply members with seed, fertilizers and agricultural implements.[11]

5. *Ibid.,* p. 203.

6. For a comprehensive outline of the position of these two schools, cf. Simpson, *The Ejido—Mexico's Way Out,* cited, Chapter XXIV.

7. The English text is given in National Revolutionary Party, *Mexican News Letter,* December 1, 1936.

8. The President's 1935 message to Congress also contains a well-rounded statement of his agrarian policy. Cf. *Diario de los Debates de la Cámara de Diputados* (Mexico City), September 1, 1935, pp. 17-19.

9-10. A total of 15,620,937 acres to 412,798 heads of families. Data from Departamento Agrario, Oficina de Estadística. As compared to the total of 14,621,289 hectares of land distributed up to the end of 1936, the 1930 census estimated that Mexico had 110,000,000 hectares of "agricultural land," including crop, pasture, forest and other land.

11. For a detailed review of the history of agricultural credit in Mexico, cf. Simpson, *The Ejido—Mexico's Way Out,* cited, Chapters XXI, XXII. Up to the end of 1933, 888 local cooperative credit societies had been organized under this system. Yet at the time Mexico had 6,406 *ejidos* (definite and provisional).

At the end of 1935 the machinery for extending rural credit to *ejidatarios* was separated from that for small agriculturists. The latter was left with the existing National Bank of Agricultural Credit, which was also to finance cattle growers[12] and colonization of irrigated areas. A law of December 2, 1935 established the National Bank of Ejido Credit, whose sole responsibility lay in meeting the needs of the *ejidatarios*. It was founded with an authorized capital of 120 million pesos, which the federal government promised to pay in full before the expiration of the Six-Year Plan.

During 1936 the National Bank of Ejido Credit, in addition to loans of approximately 9 million pesos in the Laguna region, granted loans totaling 26,400,000 pesos, distributed as follows: 17,277,000 for living expenses (in place of wages formerly received when the *ejidatarios* were farm hands); 7,613,000 for seeds, animals and implements; 419,500 for improvements on lands and buildings; and 1,089,000 in commercial credits. During the year 14 million pesos in loans were repaid to the Bank—10 million in cash and 4 million in produce. Loans were granted to 3,392 *ejido* societies, representing 298,894 peasant families or approximately one-fourth the total number of *ejidatarios* in the country.[13]

To the degree that government financing dominates the process, the agrarian reform represents fundamentally an experiment in state socialism. But the plan is oriented theoretically toward the development of a genuine communal system. The local credit societies are to purchase stock in the National Bank of Ejido Credit, and if this program is carried out, the *ejidatarios* will own the Bank in 25 years. In the *ejidos* there are overseers, who keep account of the hours worked by each individual. Eight hours are considered a day's work, for which the Bank advances 1.50 pesos. At harvest time, after the Bank has collected on its short-term loans, any profits remaining are to be divided among the *ejidatarios* in proportion to the number of working days each individual has to his credit.

12. As a concession to the cattle interests of the north, President Cárdenas approved in March 1937 an amendment to the Agrarian Code, exempting from expropriation during 25 years those lands which supported a minimum of 300 head of milch cattle or 500 head of beef cattle. *Diario Oficial*, March 5, 1937, and *Mexican News Letter*, March 8, 1937.

13. *Mexican News Letter*, February 5, 12, 1937. The manager of the National Bank of Ejido Credit announced that 83 million pesos of credits would be advanced during 1937, 35 million of which would go to the Laguna region. During 1936 the National Bank of Agricultural Credit granted loans totaling 11,459,000 pesos. Its report is published in *El Nacional* (Mexico City), May 5, 1937. The peso is now equivalent to approximately 28 United States cents.

THE LAGUNA EXPERIMENT

Of major significance for the future of agrarian reform is the Laguna experiment begun in October 1936. In this area of north-central Mexico the government has attempted for the first time to reorganize the economic and social basis, not of a single village, but of an entire region. Much depends on the success or failure of this initial effort at large-scale distribution and planning. If results are favorable, the Laguna area may serve as a model for other parts of Mexico.

The Laguna region lies in the States of Durango and Coahuila. Its area is approximately 8 million acres (12,741 square miles), but of this total only 324,000 acres were cultivated in 1931.[14] Much of the land consists of alluvial deposits made by the Nazas and Aguanaval rivers, which have no outlet. With this type of soil formation, the Laguna may be likened to a Mexican Egypt. The rivers are irregular in their floods and artesian wells are used for auxiliary irrigation.

Through irrigation works and large-scale cultivation private landowners had by 1920 transformed this previously neglected area into the most important agricultural zone in the country, with the single possible exception of Yucatan. The principal crops were cotton and wheat.[15] In 1930 the area had a population of 149,000.

Until the advent of the Cárdenas régime, the large landholders in the region had been able to stave off partition of their estates. They had urged that expensive irrigation works required by the special conditions of the area made large-scale exploitation inevitable. But on August 16, 1936 the farm hands on 104 plantations went on strike, demanding a 33 per cent wage increase, recognition of their unions, sanitary housing, medical attention and other benefits. The workers dispatched a delegation to Mexico City to interview General Cárdenas, and their initiative seems to have been largely responsible for the President's pledge to

14. Secretaría de Agricultura y Fomento, Dirección de Economía Rural, *Regiones Económico-Agrícolas de la República Mexicana* (Tacubaya, D. F. Talleres de la Oficina de Publicaciones y Propaganda, 1936), p. 103. Within the Laguna lie the municipalities of Matamoros, San Pedro, Torreón and Viesca in the State of Coahuila, and those of Gómez Palacio, Lerdo and Mapimi in the State of Durango.

15. *Regiones Económico-Agrícolas de la República Mexicana*, cited, p. 104. Two British concerns, the Tlahualilo Company and William Purcell & Co., Ltd., were estimated to control about 40 per cent of the Laguna business, four Spanish companies about 30 per cent, and Mexicans the remaining 30 per cent. For one discussion of conditions in the region prior to the present reform, cf. Rómulo Delgado Crespo, "El Problema Agrario de la Comarca Lagunera," *Revista de Economía y Estadística* (Mexico City), August 1936.

begin prompt distribution of land in the area.[16]

In a decree of October 6, 1936,[17] applicable to the Laguna region alone, Cárdenas took steps to carry out his promise to the workers. This measure ordered grants of communal land to "all those centers of rural population" making application to the agrarian authorities, and provided that farm workers living outside the villages should be included in the distribution program. Existing landowners were allowed to retain "areas not exceeding one hundred and fifty hectares[18] of land irrigated by gravity or pumping, or the equivalent thereof." Such farms would be considered as "small holdings under cultivation," and would not be subject to expropriation. Cash payments (in four annual instalments) were to be made for the value of any wells on lands taken. After *ejidos* had been granted to all villages, landholders "left with an area exceeding the limits assigned to small holdings" were ordered to subdivide the excess by selling plots on time payments to individual small farmers.[19]

To insure the prompt execution of this decree, President Cárdenas spent several weeks in the Laguna region during November and December 1936. Land distribution was rapidly pushed, as was the organization of the *ejido* communities and the extension of credit to the local cooperatives. Large amounts of agricultural machinery were shipped in. It was announced that the government would expend 19 million pesos for three dams to increase use of Nazas river water in irrigation. New schools were established. Housewives were organized in village groups to work for pure water, better housing, more adequate sanitation, consumers' cooperatives, and to wage war against drunkenness and vice. Up to February 28, 1937, some 248,000 hectares (approximately 600,000 acres) had been distributed to 270 communities, with 30,500 heads of families. To the local cooperative societies, the Bank had issued credits totalling 14,222,000 pesos, for subsistence wages, implements and work animals, and permanent improvements.[20]

16. For one account of the strike, cf. *Mexican Labor News* (Mexico City, Workers' University of Mexico), September 1, 1936.

17. The English text is given in Ministry of Foreign Relations, *The Mexican Government in the Presence of Social and Economic Problems* (Mexico City, Press of the Ministry of Foreign Relations, 1936).

18. Approximately 375 acres.

19. For the text of a sample contract of this type, cf. *Mexican News Letter,* November 24, 1936.

20. By June this amount had increased to 29 million pesos. 104,000 hectares had been prepared for cotton sowing, and 7,300 hectares sowed in wheat. Cf. *El Nacional,* June 28, 1937.

The Laguna experiment will probably stand or fall in the last analysis on its ability to contribute to national production. Will it prove as efficient as the previous capitalistic régime? The President, it would appear, has been holding up similar programs in Yucatan[21] and in the northwest until the results of the Laguna movement become evident. According to some reports, the 1937 cotton harvest will yield about 140,000 bales as compared with normal production of between 150,000 and 175,000 bales.[22]

Critics on both right and left have noted the large powers concentrated in the National Bank of Ejido Credit, and assert that these give the Bank potentially despotic control over the communal landholders. It may be converted into a "finance-agricultural monopoly," through which future politicians may seek to exploit for their own profit the land and also the savings of the peasants.[23-24] Possibly in an attempt to forestall these dangers, President Cárdenas has ordered the holding of a series of state conventions, to be attended by delegates of the local credit societies, at which the policies of the National Bank of Ejido Credit may be discussed and criticized.

TREND TOWARD STATE SOCIALISM

Parallel with its program for distribution of agricultural land, the Cárdenas administration has moved to extend government control over industry. On November 23, 1936 the President signed a sweeping Expropriation Law.[25-26] In place of the provision in the 1857 law, permitting government seizure of property only for reasons of "public necessity," this legislation substituted the much wider phrase, "for public and social welfare." It

21. On August 7 it was reported that large-scale distribution of land from henequen estates would begin at once. *New York Times,* August 8, 1937.

22. *Modern Mexico* (New York), July 1937, p. 17. At the end of July it was announced that the *ejidatarios* growing wheat in the Laguna would receive approximately one million pesos in profits. On one *ejido* the peasants were given an average of 40 pesos each, after all their obligations had been satisfied; on others the profits were reported to run from 200 to 500 pesos for individual *ejidatarios. El Nacional,* July 31, 1937.

23-24. Cf. Rodrigo García Treviño, "Ejidos, 'Mordidas,' Hombres y Clases," *Futuro* (Mexico City), March 1937; and Blas Urrea (Luis Cabrera), *Veinte Años Después* (Mexico City, Ediciones Botas, 1937), pp. 271-81. The latter author points out that it is the Bank which organizes the local credit societies, decides what crops are to be cultivated, furnishes the money for expenses, names the foreman, pays wages, collects and sells the harvests, carries the accounts and finally has the say as to who can work.

25-26. *Diario Oficial,* November 25, 1936. One factor leading to the promulgation of this law was the Laguna experiment, where the government wished to take over wells, pumping machinery and other equipment, in addition to the land.

authorized expropriation of private property to promote, among other ends, "the equal distribution of wealth held and monopolized to the exclusive advantage of a few persons with prejudice to society in general or to any particular social class"; and "the establishment, maintenance or conservation of an industrial concern for the good of society." Owners of property affected were granted recourse only to administrative action, and indemnification was to be based on tax valuation.

Acting under this law, President Cárdenas announced on June 23, 1937 expropriation of the National Railways of Mexico, with more than 7,000 miles of track.[27] A new cabinet department was created to run the roads and labor was promised an important voice in the management. Compensation was pledged to the security holders, after an evaluation of the properties had been made.[28]

Just a few days prior to nationalization of the railways, a presidential decree of June 15, 1937[29] opened the way for governmental regulation of the production, distribution and sale of both agricultural and industrial products. The Ministry of National Economy was authorized to designate articles of primary importance, the producers of which were to be organized into state and national associations, under the supervision of that Ministry. These associations, "divorced from all idea of gain," were to regulate, by quotas and otherwise, the quantity of production, adjusting it to the needs of consumption and export; fix prices and carry out distribution and sale. Imports of the designated articles were also to be controlled. Every producer of the articles in question would be required to join the associations and obliged to deliver to them his entire production, for sale by the associations. They would thus serve as agencies to assure orderly marketing, eliminate ruthless competition and maintain a constant selling price above the cost of production. At the same time, it was believed that the law was designed to break the power of monopolistic jobbers and other middlemen, in the hope of satisfying the growing popular clamor for lower prices to the consumer.[30] While the scope of this strongly totalitarian measure is broad indeed, its application is expected to be gradual.

The government has also taken steps toward control of the oil industry, carrying forward a trend which has long been under way.[31] A presidential decree of January 30 1937[32] established a government agency entitled the General Administration of National Petroleum (*Administración General del Petróleo Nacional*). This agency, organized as a dependency of the Federal Executive, was to explore and exploit lands of the national petroleum reserve, to promote development of the petroleum industry for the benefit of the national economy, to regulate the internal market and the exportation of petroleum and finally "to carry out all classes of operations and works which may be related to the production, acquisition, disposal, transportation, warehousing, refining and distribution of petroleum, gas and the derivatives of both."

For the fulfillment of this blanket commission, the new agency was to receive all oil reserves and other properties held by an earlier semi-official company,[33] lands of the national petroleum reserve, and in addition appropriations from the federal budget.

Executives of foreign oil companies expressed apprehension at the definite entry of the Mexican government in the oil business. In an effort to allay these fears, President Cárdenas declared that the new organization would "not affect legitimate interests acquired by foreign companies."[34] Although the actual production of the government company is still very small, it possesses rich reserves. Moreover, no petroleum concessions of importance are said to have been issued to foreign corporations since the beginning of the Cárdenas administration, although many applications have been pending for ten years or longer.[34a]

The government has moved more slowly toward nationalization of the mining industry, which like petroleum is largely foreign-owned.

27. Two important lines still remain under private ownership and control—the Mexican Railroad, from Vera Cruz to Mexico City, and the Southern Pacific along the west coast. For the text of the decree, cf. *Diario Oficial,* June 24, 1937. For some time the government has held 99 per cent of the common stock of the National Railways, 35 per cent of the first preferred and 25 per cent of the second preferred stock; or 52 per cent of the total stock issued, whose par value is \$224,000,000. Of the bonded debt, whose principle totaled some \$240,000,000, approximately 50 per cent was owned by British interests and about 16 per cent by United States holders. The National Railways were previously under government control, from 1914 to 1926.

28. In 1934 a mixed company was formed, with the government holding a two-thirds interest, to construct a number of new railroad lines, particularly in the southwest. Some 60 million pesos were to be spent during the Six-Year Plan.

29. *Diario Oficial,* June 25, 1937.

30. Cf. the exposition of the purpose of the law, issued by the Ministry of National Economy, *El Nacional,* July 13, 1937.

31. In 1926 a decree set aside all "free lands" in productive oil areas as national reserves. These reserves were also to include all lands becoming free due to lapse or cancellation of concessions.

32. *Diario Oficial,* March 2, 1937.

33. The *Sociedad "Petróleos de México," S.A.,* popularly known as "Petro-Mex," which was created in 1933.

34. *Christian Science Monitor* (Boston), March 30, 1937.

34a. For a discussion of the petroleum controversy between Mexico and the United States, cf. p. 134.

Mining lands, including iron and salt deposits, have been added to the national reserves. The grant of new mining concessions has been limited to Mexican citizens.[35]

ADVANCE OF LABOR LEGISLATION

Foreign capital in Mexico finds its position endangered by a pincers movement. On the one hand it faces increasing regulation, intervention and competition from the government; and on the other hand, its profits are threatened by the aggressive tactics of labor, whose demands are frequently reinforced by official support. The Federal Labor Law of 1931,[36] which embodied in legislation Article 123 of the 1917 Constitution, materially strengthened labor's position. It legalized collective bargaining, prohibited the lockout, made the closed shop legal but not obligatory, and sharply restricted the right of the employer to suspend operations or discharge his workers. All employees dismissed without a "just" cause were entitled to three months' wages. Government boards of conciliation and arbitration were empowered to rule on the legality of strikes. If a strike was approved, picketing or "sit-down" movements were not necessary, since the strikers were granted possession of the company's premises as long as the movement lasted.

Under President Cárdenas labor has won additional advances. A law of February 19, 1936 required payment for the weekly rest day, thus raising wages by approximately 17 per cent. State boards of conciliation and arbitration have moved to increase minimum wages, first established by President Abelardo Rodríguez in 1933. The settlement of the electric strike in July 1936 incorporated the principle of profit-sharing by the workers in the gross income of the company.[37] Labor continues to press for greater voice in management, by reduction in the number of confidential posts which can be held by non-members of the union, and by the system of seniority promotion, irrespective of qualification or ability.

35. A 1936 ruling provided that all mining concessions, including those granted prior to the 1917 Constitution, were contingent on the maintenance of regular works. It was contended that this placed many mining concessions in jeopardy and seemed to place mining companies in a position closely analogous to that of the oil companies in 1926. In August 1937 it was reported that the mining industry planned a protest to the government against a projected new law, which would require among other items that 25 per cent of all profits be spent in Mexico. *New York Times*, August 10, 1937.

36. For an analysis of its provisions, cf. Clark, *Organized Labor in Mexico*, cited, Chapter VI.

37. The government committee investigating the books of the oil companies recommended for the 18,000 petroleum workers a minimum wage of $1.40 and other advances, estimated to represent a total increase of $7,000,000 annually. *New York Times*, August 5, 1937.

THE AGRARIAN DISPUTE WITH THE UNITED STATES

The Cárdenas administration has profited from the unique degree of cordiality which has recently governed relations between Mexico City and Washington. At present the days of controversy and strain—so numerous from 1911 to the coming of Ambassador Morrow in 1927—seem forgotten. But it is worthy of note that friendship now prevails, despite the failure to eliminate potential sources of friction. The latter include agrarian expropriations, the threat of Mexico's petroleum policy to United States capital, and the longstanding default on the country's external debt.

Expropriation of agricultural lands during the Cárdenas period has affected properties of United States citizens in the Territory of Lower California, the Laguna region, the State of Puebla and other areas.[38] Before the agrarian reform got well under way, it was estimated that foreigners owned about one-fifth of the private lands of Mexico. Of these foreign-owned lands, Americans held approximately half.[39] The agrarian program led to the seizure of many foreign holdings. Up to October 13, 1926, 710,768 hectares, or approximately 1,775,000 acres, had been taken from foreigners.[40]

Both the Mexican and the United States governments have withheld publication of statistics on the amount of foreign-owned lands recently expropriated. If these lands have suffered at an equal ratio with Mexican-owned lands, it may be estimated that one-fifth of the 14,621,000 hectares distributed from 1915 to the end of 1936 were taken from foreigners, or approximately 2,924,000 hectares (7,222,000 acres). Possibly half of this area might represent the property of United States citizens.[40a]

The Constitution of 1917, in Article 27, had provided the legal basis for Mexico's agrarian program. While this document distinctly recognized the right of private property, it asserted that "the ownership of lands and waters comprised within the limits of the national territory is vested originally in the Nation." Further, the state was

38. *New York Times*, January 9, April 30 and June 27, 1937.

39. 41.7 per cent of total value and 51.7 of total area. Cf. Frank Tannenbaum, *The Mexican Agrarian Revolution* (New York, Macmillan, 1929), Chapter XV.

40. *Boletín de la Secretaría de Educación Pública* (Mexico City), March 1927, p. 34, cited in Edgar Turlington, *Mexico and Her Foreign Creditors* (New York, Columbia University Press, 1930), p. 310. Of a total of 3,011,000 hectares distributed for *ejidos* up to the end of 1926, the land taken from foreigners constituted slightly less than one-fourth.

40a. These admittedly loose calculations are based on the proportions estimated by Tannenbaum, which were mentioned above and in footnote 39.

declared to "have at all times the right to impose on private property such limitations as the public interest may demand. . . . For this purpose necessary measures shall be taken to divide large landed estates; to develop small landed holdings; to establish new centers of rural population with such lands and waters as may be indispensable to them." Article 27 also stated that "private property shall not be expropriated except for reasons of public utility and by means of (*mediante*) indemnification"[41]; and provided that compensation for expropriated property was to be granted on the basis of the declared value of the property for taxation, plus 10 per cent. Landowners were offered payment in 20-year 5 per cent bonds. In most cases, however, holders of property affected have since refused to accept such compensation. They asserted that the real value of their lands far exceeded the value declared for taxation, and argued they should receive immediate payment in cash, rather than delayed compensation through bonds. Service on the bonds that were issued was not maintained, so that in recent years they have averaged only about 10 per cent of their face value.[42]

Article 27 attempted to substitute for the individualistic theory of private property what is generally termed the theory of "social use." According to this theory, the right of private property is not destroyed, but the interests of the group definitely take precedence over the interests of the individual. The provisions of Article 27 led to a diplomatic controversy with the United States, in which the Washington government sought to defend the absolute concept of private property, arguing that it could not be seized save for a public purpose, and then only on payment of "actual, fair and full compensation." By 1923 the controversy had narrowed down to a discussion of the adequacy of the compensation offered by Mexico for expropriated lands which had been acquired by United States citizens before the constitution went into effect on May 1, 1917. At this time some measure of agreement was achieved through the so-called Bucareli conference,[43] to which both nations named commissioners.

The Bucareli conversations resulted in modification by the United States of its original contention that lands should not be taken unless full compensation in cash were made at the time of seizure. Apparently convinced that agrarian reform was inevitable, the United States commissioners proposed a compromise. Their government would consider payment in bonds of lands taken for *ejidos,* but only at the just value thereof,[43a] and on condition that the Mexican government declare that such expropriations did not "constitute a precedent for Mexico entitling her to expropriate any other kind of property, real or personal, for any purpose, except upon indemnification for the just value thereof at the time of the taking having been made in cash." This agreement was dependent also on approval of a general claims convention, under which United States citizens might claim loss or damage "for any injustice arising from acts of officials or others acting for the Mexican Government." It was further demanded that the land taken for an *ejido* should not materially exceed 1,755 hectares (4335 acres); and that any land seized in excess of this amount should receive immediate compensation in cash.[44] The United States proposal was accepted in its principal points by the Mexican commissioners. The statements of the United States and Mexican commissioners were subsequently approved by Presidents Coolidge and Obregón, respectively. The Bucareli agreements, however, fell short of constituting a formal treaty between the two countries, as was later emphasized by President Calles, who declared they represented merely "an exchange of views."[44a]

Ambassador Morrow, during his stay in Mexico from 1927 to 1930, made efforts to limit the amount of land expropriated and urged payment of cash for land taken. While his influence probably served to slow up the program of agrarian

41. Cf. Simpson, *The Ejido—Mexico's Way Out,* cited, pp. 56-74 and 749-55. This source also gives the English text (pp. 759-808) of the 1934 Agrarian Code, Mexico's latest summary of agrarian legislation.

42. Some 24,426,800 pesos of these bonds had been delivered to claimants up to June 1933, and since that date there has been no substantial change, it is stated, in the status of the debt. Some 14,770,000 pesos of these bonds are now outstanding. The total debt incurred by expropriation has been estimated somewhere between 660 and 950 million pesos. Authorities have expressed doubt that this debt will ever be acknowledged or paid in any amount approaching its full figure. Cf. Simpson, *The Ejido—Mexico's Way Out,* cited, Chapter XIII.

43. Its meetings were held at No. 85 Bucareli Street, Mexico City. The United States commissioners were Charles Beecher Warren and John Barton Payne; the Mexican, Ramón Ross and Fernando González Roa. For a record of the discussions, cf. U. S. Department of State, *Proceedings of the United States-Mexican Commission Convened in Mexico City, May 14, 1923* (Washington, Government Printing Office, 1925). This source is hereafter cited as *Proceedings.*

43a. The United States objected to the basis of assessed valuation, alleging that this was not "fair, just or legal."

44. *Proceedings,* cited, pp. 37-40. For a summary, cf. Frederick S. Dunn, *The Diplomatic Protection of Americans in Mexico* (New York, Columbia University Press, 1933), pp. 378, 379.

44a. "Reply of Mexican Minister for Foreign Affairs, handed to the American Ambassador on November 27, 1925," Senate Document No. 96, 69th Cong., 1st Sess., p. 4.

reform, the legal position of United States claimants was not improved.[44b]

THE CLAIMS COMMISSIONS

Meanwhile, the General Claims Commission provided for in the Bucareli conversations had been set up in 1924.[45] It was to hear cases submitted by citizens both of Mexico and the United States, and to have jurisdiction not only over agrarian claims, but over all types of claims except those for damages suffered by United States citizens "through revolutionary acts within the period from November 20, 1910, to May 31, 1920." The latter were to be considered by a Special Claims Commission.

Delays in organization and occasional bickering hampered the work of the General Claims Commission, and after seven years it could report only the following limited results:

WORK OF THE UNITED STATES-MEXICAN GENERAL CLAIMS COMMISSION TO AUGUST 30, 1931[46]

AMERICAN	*Number*	*Value*
Claims filed	2,781	$513,694,267.17
Claims disallowed or dismissed	50	....
Awards made	89	4,607,926.59
MEXICAN	*Number*	*Value*
Claims filed	836	$245,158,395.32
Claims disallowed or dismissed	4	....
Awards made	5	39,000.00

The term of the General Claims Commission was extended by a Convention and Protocol signed on June 18, 1932, and an additional Protocol of April 24, 1934. These documents made changes in the organization and procedure of the Commission directed toward acceleration of its activities. Following the final report[46a] of the commissioners on the cases in which agreement has been reached and on those in which it was still lacking, the two governments are to conclude a convention providing for the adoption of one of two courses. All claims are to be settled either through a "lump-sum" payment or through adjudication by an umpire.[46b] The 1934 Protocol specifically declared, however, that agrarian claims were to be handled through informal discussion between the two governments; pending such discussion they were not to be presented to the Commission or to the umpire. Reports have it that these diplomatic discussions have so far failed to achieve agreement.

When any expropriation now affects the land of a United States citizen, the case is handled through diplomatic channels. Calles' refusal to recognize the validity of the Bucareli agreements, and the informal character of the Morrow negotiations have apparently limited the reliance of the State Department on these precedents. Agrarian claims were practically removed from the purview of the General Claims Commission. Further, that body has no jurisdiction over recent expropriations, but only over claims filed before August 30, 1927. Thus no international machinery, outside of diplomatic negotiations, exists for the settlement of current cases; and Mexico apparently recognizes no obligations except those arising out of international law.

It appears that the present policy of the Department with regard to land expropriations is simply to urge the Mexican government to make a satisfactory adjustment with the owner. These representations, have resulted in promises of compensation but apparently no substantial indemnification.[47] Since 1933 Mexico has suspended both issuance of new agrarian bonds, and service on existing bonds. Thus no provision is now in force for compensating foreigners whose lands are expropriated. In January 1937 the Mexican Minister of Finance announced that the government would pay the agrarian debt—both that represented by existing bonds and the amount to be assumed in the future—"to the extent that its own resources will permit." Bonds already issued would be exchanged at par for 40-year bonds of the internal debt, on which, however, amortization service is not now up to date. It was also declared that the President had ordered the addition of two million pesos to the current budget, which would be ap-

44b. Cf. J. M. Callahan, *American Foreign Policy in Mexican Relations* (New York, Macmillan, 1932), p. 618; and Harold Nicolson, *Dwight Morrow* (New York, Harcourt, Brace, 1935), pp. 334-35.

45. By the General Claims Convention on which ratifications were exchanged March 1, 1924. Article I provided for submission to the Commission of "all claims (except those arising from acts incident to the recent revolutions) against Mexico of citizens of the United States . . . for losses or damages suffered by persons or by their properties" and *vice versa*. For a scholarly review of the question of Mexican claims, cf. A. H. Feller, *The Mexican Claims Commissions, 1923-1934* (New York, Macmillan, 1935).

46. From *ibid.*, p. 60.

46a. This is to be presented not later than October 31, 1937.

46b. Of the 3617 claims originally presented to the General Claims Commission, 148 were disposed of before August 30, 1931, and about 650 others were transferred for adjudication to the Special Claims Commission. On approximately 2800 claims, which still remain, the work of "pleading" has been terminated by both sides. It is reported that the two commissioners have reached agreement on some 350 or 400 of the total of 2800 claims; and it is possible that this number may be increased before the end of October.

47. Great Britain is reported to have protested against the seizure of lands from its citizens in the Laguna region; but as yet to no apparent effect.

plied to the "issue of new bonds and initiation of their service," for owners affected by land expropriations.[47a] But to date no further steps have been announced to redeem these pledges.

The work of the Special Claims Commission, with jurisdiction over damages suffered by United States citizens during the revolutionary period from 1910 to 1920, was plagued even more acutely by an intransigeant spirit. Of 3,176 claims aggregating $421,300,132.41, it had by August 1931 disallowed 18 and made awards on none.[48] In contrast with this complete failure for the United States, claims commissions set up by Mexico in collaboration with various European governments had achieved substantial success. Consequently it was agreed, in a convention of April 24, 1934, that United States claims should be settled by payment of a lump sum, which should have the same proportion to the total amount claimed by United States citizens as the awards granted to citizens of Belgium, France, Germany, Great Britain, Italy and Spain had to the amounts originally claimed by those groups. On this basis, a joint United States-Mexican committee fixed the sum at $5,448,000;[48a] and since January 1935, Mexico has made three annual payments of $500,000 on this account. Thus despite the former failure of international adjudication, this controversy is now on the road to final settlement.

REVIVAL OF OIL CONTROVERSY?

By threatening government competition and generally supporting the demands of labor, the Cárdenas administration has conducted a flank rather than a frontal attack on the holdings of foreign oil companies. A recent government move may challenge the legal position of the companies more directly. Early in July 1937 it was reported that the Ministry of National Economy had prepared a decree which would require petroleum corporations to pay royalties on all lands they hold under lease in Mexico, and to initiate production and maintain "regular works" on their reserve lands at the direction of the Minister of National Economy.[49] According to the companies, these prescriptions threatened their property rights and violated the Morrow-Calles agreement of 1928, which provided in substance that rights acquired before the 1917 Constitution went into effect should continue in force without new restrictions.[50]

The provision for nationalization of petroleum resources contained in Article 27 of the 1917 Constitution brought forth protests by the United States, practically from the date of promulgation of that document. It was contended that its terms threatened infringement of rights acquired under Mexican laws of 1884, 1892 and 1909, which were held to have vested ownership of petroleum deposits in the owners of the surface land. The discussion finally narrowed down to the question of property rights in lands which the companies held as reserves, but which had not been actively exploited before 1917. These lands, it was estimated, constituted from 80 to 90 per cent of the companies' total holdings. In the Texas Company case of 1921, the Supreme Court ruled that the Constitution was not retroactive as to oil rights acquired before it came into force on May 1, 1917. But the Court limited those rights by developing a new doctrine of "positive acts." It held that rights to petroleum deposits became vested only when some definite step or positive act had been taken to exercise such rights. At the 1923 Bucareli conference the Mexican commissioners reiterated the Supreme Court argument that Article 27 was not retroactive with respect to lands on which some positive act had been performed. Owners of other lands—on which no positive act had been performed—were merely promised preferential rights over third parties to subsoil exploitation. The United States commissioners, however, refused to sanction this proposal and reserved all rights which had been acquired by their citizens to the subsoil.[50a]

47a. *El Universal*, January 12, 1937, and Banco Nacional de Mexico, S.A., *Review of the Economic Situation in Mexico* (New York City), January 1937.

48. Feller, *The Mexican Claims Commissions, 1923-1934*, cited, p. 68.

48a. Or 2.64 per cent of the total amount claimed. The sum may subsequently be increased slightly if some of the cases now under consideration by the General Claims Commission are transferred to the Special Claims Commission. An Act of Congress of April 10, 1935 authorized a commission of United States citizens to allocate among individual claimants the sum to be received from Mexico. This commission is expected to complete its work by August 31, 1937.

49. *New York Times*, July 3, 1937. According to the position of the oil companies, payment of royalties rather than taxes would be tantamount to recognition of the government's claim to basic ownership of all petroleum resources. To date royalties have been paid on ordinary concessions, obtained after 1917, but not on the "confirmatory" leases, covered in the Morrow agreement, which recognized oil rights acquired before 1917. (As of June 30, 1937 petroleum interests were reported to hold 1504 confirmatory concessions, totaling some 5,000,000 hectares; and ordinary concessions, aggregating 1,667,000 hectares.) Article 156 of the Petroleum Regulations amended on March 28, 1928 (cf. footnote 51) specifically exempted the companies holding confirmatory concessions from the requirement to maintain "regular works."

50. Cf. J. Reuben Clark, Jr., "The Oil Settlement with Mexico," *Foreign Affairs* (New York), July 1928, p. 613.

50a. Thus the companies were left in position to file claims for damages before the General Claims Commission. But they apparently had little recourse to this procedure.

Following this respective delineation of positions, the controversy slumbered. It was revived by a law approved by the Mexican Congress on December 26, 1925, which required holders of oil lands on which a positive act had been performed, to exchange their titles for government concessions running not more than 50 years. A long diplomatic controversy ensued, in which the United States refused to accept the doctrine of positive acts. It also objected to the substitution of a concession for a title because this enforced change curtailed a vested right. When Mexico refused to give ground, an *impasse* resulted which was broken in 1927 only by the efforts of Ambassador Dwight Morrow.

As a consequence of Morrow's conciliatory policy, President Calles induced the Mexican Congress to modify the 1925 legislation by a law promulgated on January 10, 1928.[51] This eliminated the 50-year time limit on concessions. Regulations for petroleum legislation, signed by Calles on March 27, provided that holders of oil lands should receive confirmatory concessions, which should recognize acquired rights. Such concessions, however, were to be granted only for lands on which positive acts had been committed prior to 1917. Thus Mexico yielded on two points: concessions granted were for an unlimited period, and the definition of positive acts accepted was the broad one employed in the Bucareli conference of 1923.[52] On the other hand, the United States agreed that titles might be "confirmed" by concessions and that such concessions should not be transferred to foreign companies or governments; and it finally accepted, with its broader definition, the Mexican doctrine of positive acts. Owners of lands on which no positive act had been performed were left apparently without any preferential rights: i.e., the government could take over their oil rights without compensation.

This compromise settlement (which, however, was not put in treaty form), governing the position of foreign holders of oil rights, has remained substantially unchanged until the present. But the Cárdenas program, pointing toward eventual nationalization of the industry, has raised the question as to how much longer it will continue in effect.

Negotiations for resumption of payment on Mexico's external debt, conducted intermittently since 1928, have not as yet resulted in any agreement.[53] Following recent conversations between a representative of the International Committee of Bankers and the Mexican Minister of Finance, it was reported in the press that the terms of settlement under consideration provided that the principal of the debt, totaling some $275,000,000,[54] be written down to an equal number of pesos. Since a peso is now approximately equivalent to 28 United States cents, this step would signify a reduction of more than 70 per cent. The debt was to be amortized over a 40-year period, with interest at four per cent. Delinquent interest payments, amounting to a figure almost as large as the principal, were to be written off entirely. The reported settlement did not include the bonded debt of the National Railways, estimated at $240,000,000.[55] The nationalization of the roads will require a new approach to negotiations on this debt.

MEXICO PROFITS FROM GOOD NEIGHBOR POLICY

Under President Lázaro Cárdenas, Mexico has taken definite strides toward a régime of state socialism. Through large-scale grants of rural credit, the government holds practical control over masses of small farmers. The decree authorizing state-supervised producers' associations has put it in position to regiment production, distribution and sales, in industry as well as in agriculture. The Expropriation Law accords the state almost unlimited powers to take over private property. Under this legislation, the government has made itself master of the country's most important railroad system. Through a government petroleum company, which has been given valuable reserves, it appears to be moving toward similar control of the oil industry. A semi-official insurance company dominates that field of activity. Future advance along this line will probably take place step by step, and will be contingent on the success of

51. *Diario Oficial*, January 10, 1928. The regulations of the law were printed in the issue of March 28, 1928.

52. This listed among positive acts "drilling, leasing, entering into any contract relative to the subsoil, making investments of capital in lands for the purpose of obtaining the oil in the subsoil, carrying out works of exploitation and exploration of the subsoil and in cases where from the contract relative to the subsoil it appears that the grantors fixed and received a price higher than would have been paid for the surface of the land because it was purchased for the purpose of looking for oil and exploiting same if found; and, in general, performing or doing any other positive act, or manifesting an intention of a character similar to those heretofore described." *Proceedings*, cited.

53. This debt went into default in 1913. A 1922 agreement between the Mexican government and the International Committee of Bankers brought resumption of service for one year, and a second agreement in 1925 was observed for two years. For the background of this question, cf. Turlington, *Mexico and Her Foreign Creditors*, cited.

54. Cf. Foreign Bondholders Protective Council, Inc., *Annual Report, 1936* (New York), p. 630. In addition, Mexico's internal debt (not including the floating) totals some 108 million pesos, or $30,000,000.

55. *New York Herald Tribune*, March 17, 1937.

measures already initiated. Not dogma, but Cárdenas' paternalistic concern for the Mexican masses will probably continue as the guiding factor in government policy. The President is expected to be realistic and experimental in the development of his program, substituting new procedures for measures which do not work out in practice. Agrarian reform may be pushed more intensively than socialization of industry. For some time to come, Mexico is likely to have a "mixed" economic system. The gradual extension of state socialism may occur simultaneously with the continued growth of native capitalism.

Both these movements threaten to undermine the position of foreign capital in Mexico. Recently this capital has been progressively pinched between increasing government taxation and intervention on the one hand and growing labor demands on the other. Its representatives declare that with present prospects further investments are out of the question. For small countries of semi-colonial economy desiring to restrict progressively the rôle of foreign capital, Mexico provides an instructive example.

Mexico's experience demonstrates also the degree to which relations with larger capitalistic nations govern this process. President Cárdenas has been able to press forward with his program only because of two factors. He has ruled in a period of rising prosperity, resulting largely from the higher prices for Mexico's metal exports brought by world economic recovery. He has been favored by the friendship of the United States.

Various factors have been advanced to account for the existing rapprochement. It may be partially explained by kinship in social philosophy. With conservative or reactionary dictatorships dominant throughout most of Latin America, the Cárdenas régime is one of the few governments in the Western Hemisphere sufficiently liberal to sympathize with, and to win the sympathy of, the New Deal. Washington may be disposed to recognize that a change in the concept of private property is taking place in Mexico and in other nations of Latin America. Some observers declare that the United States will no longer protect the interests of its nationals abroad against laws which bear equally on foreigners and nationals. But political self-interest has also played an important rôle in Washington's attitude. For the United States Mexico constitutes, if not the keystone, at least an essential block in the arch of the Roosevelt-Hull Good Neighbor policy. The threatening trend of world affairs has made the political factor of Latin American friendship outweigh at Washington the economic importance of United States investments south of the Rio Grande.

But it is charged by some critics that Mexican policies have not been guided by reciprocal consideration for United States interests. The belief is held in certain quarters that the Cárdenas administration has exploited to its own marked advantage Washington's present cordiality;[56] and possibly has gone to the point of overplaying its hand. It is accused of sabotaging, by vague promises and habitual procrastination, the desire of the United States to clear up friction-breeding issues. Such a course of action, it is held, may run the risk of provoking an unfavorable reaction. With the Good Neighbor policy, the Roosevelt administration has not actively stressed protection of investments abroad; but it has repeatedly emphasized the importance of maintaining an orderly body of international law. Precedents established in relations with Mexico are bound to influence the future status of United States capital in the rest of Latin America. A number of signs already point toward a possible stiffening of Washington's attitude, which may presage a "stronger" policy toward Mexico, and perhaps toward all Latin America.[57]

56. On January 18, 1937 changes were promulgated in Mexican customs duties affecting 667 tariff classifications. Of these, 664 changes provided for increases, of which the average was 26 per cent. This step seriously affected United States exports to Mexico; and represented, further, a trend contrary to the Hull program for lowering tariff barriers.

57. Among other indications is a recent statement of Under-Secretary of State Sumner Welles. He declared that "the policy of the 'good neighbor' is not a one-way policy. It is inherently reciprocal in its nature. If this Government, in its dealing with its American neighbors . . . treats them with scrupulous respect for their sovereignty, for their rights and for the rights of their nationals . . . , it has the right to expect similar respect, equivalent consideration, for itself and for its nationals." U. S. Department of State, *Press Releases,* July 20, 1937.